

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**CHERYL K. CARLSON and  
DENNIS E. CARLSON, as Personal  
Representative for the ESTATE OF  
SHIRLEY CARLSON,**

**Plaintiffs,**

**vs.**

**FREIGHTLINER L.L.C, a  
Delaware Corporation,**

**Defendant.**

**CASE NO. 4:03-CV-3208**

**MOTION FOR STAY OF MAGISTRATE  
JUDGE'S ORDER TO COMPEL  
PENDING RULING ON DEFENDANT'S  
STATEMENT OF APPEAL**

COMES NOW the Defendant, Freightliner, L.L.C., by and through counsel and pursuant to NELR 72.3(e) and moves the Court for a stay of the Magistrate Judge's Memorandum and Order dated March 19, 2004, by the Honorable David L. Piester (Filing No. 35) for the following reasons:

1. The Defendant has filed a Statement of Appeal of the Magistrate's Order on March 26, 2004. (Filing No. 36). If the Court does not grant the Motion to Stay the Defendant could be required to produce unnecessary discovery responses and if a stay is not granted it will moot the Defendant's Statement of Appeal.
2. On March 30, 2004, the Court denied the Plaintiff's motion for summary judgment to have Oregon law on punitive damages apply to this case. (Filing No. 38). This decision should have an effect on the Memorandum

and Order dated March 19, 2004, because the Defendant is required to provide discovery on the punitive damage issue pursuant to the Memorandum and Order.

WHEREFORE, the Defendant respectfully requests that the Court enter an order staying the Magistrate Judge's Memorandum and Order (Filing No. 35) for the above-stated reasons.

DATED this \_\_\_\_ day of March, 2004.

FREIGHTLINER L.L.C., Defendant,

By: s/Melanie J. Whittamore-Mantzios,  
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#### **CERTIFICATE OF SERVICE**

I hereby certify that on March , 2004, I electronically filed the foregoing **MOTION TO STAY THE MAGISTRATE JUDGE'S ORDER** with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

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